

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

**UNITED STATES OF AMERICA**

v.

**MICHAEL SCOTT DEAR,**

Defendant.

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Case No. 1:19CR00047-002

**OPINION AND ORDER**

JUDGE JAMES P. JONES

*Michael Scott Dear, Pro Se Defendant.*

The defendant, a federal inmate, has filed a pro se motion entitled “Motion Requesting the Court to Grant Home Confinement Pursuant to the First Step Act, the CARES Act.” The defendant was sentenced by this court on October 9, 2020, to 188 months’ imprisonment following his guilty pleas to conspiring to possess with intent to distribute or distribute methamphetamine and to being a felon in possession of a firearm. He his confined at FCI Loretto and has a projected release date of June 11, 2032.

To the extent the defendant relies on the home confinement provision of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, § 120003(b)(2), 134 Stat. 281, 515 (2020), that provision provides that

**HOME CONFINEMENT AUTHORITY.**—During the covered emergency period, if the Attorney General finds that emergency

conditions will materially affect the functioning of the Bureau, the Director of the Bureau may lengthen the maximum amount of time for which the Director is authorized to place a prisoner in home confinement under the first sentence of section 3624(c)(2) of title 18, United States Code, as the Director determines appropriate.

The CARES Act does not provide power to the federal courts to grant such extended home confinement. That authority is granted solely to the Attorney General and the Bureau of Prisons. *United States v. Brummett*, No. 20-5626, 2020 WL 5525871, at \*2 (6th Cir. Aug. 19, 2020) (unpublished).

To the extent that the defendant is relying on the court's power to reduce his sentence for extraordinary and compelling reasons, 18 U.S.C. § 3582(c)(1)(A)(i), I do not find that that he has stated sufficient reasons to enable the court to grant such relief. The defendant alleges only a general threat of illness from COVID-19. The defendant is 45 years old and at the time of his sentencing in 2020 was in "good health" and reported only "minor medical problems." Presentence Investigation Rep. ¶ 67, ECF No. 344.

For the reasons stated, it is **ORDERED** that the motion by the defendant, ECF No. 509, is **DENIED**.

ENTER: September 7, 2022

/s/ JAMES P. JONES  
Senior United States District Judge